



*United States Attorney
Southern District of New York*

FOR IMMEDIATE RELEASE
JUNE 24, 2003

CONTACT: U.S. ATTORNEY'S OFFICE
MARVIN SMILON, HERBERT HADAD,
MICHAEL KULSTAD
PUBLIC INFORMATION OFFICE
(212) 637-2600

**U.S. CHARGES MANHATTAN DOCTOR AND 2D MAN IN SEPARATE
CASES WITH ILLEGALLY DISTRIBUTING NARCOTICS THAT
RESULTED IN DEATH**

JAMES B. COMEY, the United States Attorney for the Southern District of New York, announced that two individuals have been charged by criminal Complaints in unrelated cases with illegally distributing narcotics, resulting in the death of two narcotics users. Specifically, a criminal Complaint was unsealed today charging FRANK CUSANO with three counts of illegally participating in the distribution of heroin, which resulted in the death of a victim who used the heroin that CUSANO had helped him buy. In the second case, DAVID E. WEXLER, a dermatologist practicing in Manhattan, has been charged in a criminal Complaint filed today with conspiring with others to distribute Hydromorphone, commonly known as "Dilaudid," which resulted in the death of a victim who overdosed on the "Dilaudid." WEXLER is also charged with conspiring to distribute Hydrocodone, commonly known as "Vicodin," and Alprazolam, commonly known as "Xanax,"

all of which are controlled substances.

Both Complaints were filed in Manhattan federal court.

According to the Complaint filed against CUSANO, CUSANO's victim died on August 27, 2001, from a heroin overdose, after surviving for several days in a coma. The Complaint alleges that CUSANO, or "Frankie," met the victim at a drug treatment program. As set forth in the Complaint, the victim had expressed his desire to others to try heroin. CUSANO told agents of the DEA in an interview that the victim had asked him what heroin was like, and for help in purchasing heroin. CUSANO further allegedly admitted that he regularly purchased heroin for distribution at a particular location on Crotona Avenue in the Bronx, New York.

As stated in the CUSANO Complaint, CUSANO admitted to agents that he had helped the victim purchase heroin on three different occasions, twice on August 23, 2001, and once on August 24, 2001. On August 23, 2001, CUSANO allegedly introduced the victim to the sellers at the Crotona Avenue drug spot, and both CUSANO and the victim purchased one bag of heroin. CUSANO and the victim returned later on August 23, 2001, to purchase another bag of heroin each, it was charged. On August 24, 2001, the victim called CUSANO again and asked him to take the victim back to the Crotona Avenue location, where the victim purchased six more bags of heroin, giving two bags to CUSANO, according to the Complaint. The victim allegedly used one bag and CUSANO

allegedly used two bags. According to the Complaint, later the night of August 24, 2001, the victim went to an acquaintance's house, and began sweating. The Complaint states he later fell asleep, and the acquaintance had trouble waking the victim up and finding the victim's pulse. As a result, the victim was eventually taken to the hospital, where he died three days later.

According to the Complaint filed against WEXLER, WEXLER is a practicing dermatologist on East 76th Street in Manhattan. The Complaint alleges that on or about May 28, 2001, a purported patient of WEXLER's was found dead in the patient's apartment, of what was later determined to be an overdose of Dilaudid. As explained in the Complaint, Dilaudid is a pain killer that is frequently used as a substitute for heroin by addicts.

After the death of this individual, investigators from the DEA obtained Medicare records for this patient, and learned that he had been treated by WEXLER on an average of 24 visits per month between September 1999 and the victim's death in May 2001. On each of these visits, WEXLER allegedly billed Medicare for excisions of benign growths from the patient's skin of approximately 4.0 centimeters, or 1.5 inches, each. WEXLER billed Medicare anywhere from \$300 to \$400 for each of these excisions, according to the Complaint. However, according to the Medical Examiner's report for the patient's death, the patient

did not have any scars, other than one from what appeared to be an appendectomy. Investigators from the DEA also learned from canvassing pharmacies in the area of the patient's residence that the patient had received monthly prescriptions for the maximum-prescribable amount of Dilaudid from WEXLER, as well as prescriptions for Vicodin and Xanax, all of which are controlled substances.

The WEXLER Complaint further alleges that an acquaintance of the patient was interviewed, who stated that he/she had accompanied the patient to visits with WEXLER. During these visits, the patient allegedly had stated that he allowed WEXLER to submit fraudulent bills to Medicare for procedures which WEXLER had not performed. In exchange for this, WEXLER allegedly gave the patient prescriptions for controlled substances and a monthly payment of \$700. The patient also allegedly stated that he would present the prescriptions to different pharmacies to hide the large numbers of pills he was getting. The acquaintance further stated that he knew the patient was an addict who also sold some of the illegal pills he obtained from WEXLER on the street, according to the Complaint.

Furthermore, as set forth in the Complaint, WEXLER was interviewed on several occasions by DEA investigators. Among other things, WEXLER allegedly told the investigators that he had

removed small growths from the patient's body. Yet, when told that the patient did not have any scars, WEXLER allegedly stated that the patient was a "fast healer." WEXLER also admitted that about half of the bills he had submitted to Medicare for procedures he had performed on the patient were fraudulent, according to the Complaint. WEXLER allegedly told investigators that he had done this "for the money." WEXLER also allegedly admitted that he may have given the patient \$700 per month so that he could use the patient's Medicare information. In addition, WEXLER acknowledged that he gave prescriptions for controlled substances to the patient in the names of other people, and that he believed that the patient had delivered these prescriptions for WEXLER, it was charged. However, when asked for medical records showing the names of the other patients, he allegedly claimed he did not make entries in those patients' charts.

CUSANO, 39, lives in Pelham, Westchester County, New York, and WEXLER, 59, resides in Manhattan.

Both CUSANO and WEXLER are scheduled to be presented on their respective criminal Complaints before United States Magistrate Judge GABRIEL W. GORENSTEIN later today. They each face a maximum sentence of life imprisonment, a mandatory minimum

sentence of 20, and a fine \$1 million or twice the gross gain or loss resulting from the offense.

Mr. COMEY praised the efforts of the Drug Enforcement Administration in this case.

Assistant United States Attorney HARRY SANDICK is in charge of the prosecution of CUSANO, and Assistant United States Attorney JONATHAN S. KOLODNER is in charge of the prosecution of WEXLER.

The charges in the Complaints are merely allegations, and the defendants are presumed innocent until and unless proven guilty.

03-151

###